

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
STATESVILLE DIVISION
5:10-cv-37-RJC**

LAQUEZ SIMMONS,

Plaintiff,

v.

**CHAD SHARPE, Corrections Officer at
the Alexander Correctional Institute, et al.,**

Defendants.

ORDER

THIS MATTER comes before the Court on Plaintiff's Motion to Amend, (Doc. No. 23), Motion to Compel Discovery (titled "Subpoena for Discovery"), (Doc. No. 24), Motion for Extension of Time to File a Response to Defendants' Motion for Summary Judgment and Motion for Discovery Protective Order, (Doc. No. 36), and Motion to Appoint Counsel, (Doc. No. 37).

A review of the pleadings reveals that Defendants have Answered the Complaint and Proposed Amended Complaint; therefore, the Court will allow Plaintiff's proposed amendment nunc pro tunc. Plaintiff's Motion to Amend, (Doc. No. 23), is **GRANTED**.

Plaintiff's Motion to Compel Discovery, (Doc. No. 24), is **DENIED**, as it was filed more than three months before discovery was opened in this case. See (Doc. No. 31).

Plaintiff's Motion for Extension of Time to File a Response to Defendants' Motion for Summary Judgment and Motion for Discovery Protective Order, (Doc. No. 36), is **GRANTED in part and DENIED in part**. Plaintiff's Motion for Extension of Time to File a Response to Defendants' Motion for Summary Judgment is granted. The Court will deny Plaintiff's Motion for Extension of Time to File a Response to Defendants' Motion for Discovery Protective Order, as the Court has already found in a separate Order that Defendants' motion for a discovery protection order will be granted. See (Doc. No. 38).

Finally, as for Plaintiff's motion for appointment of counsel, there is no absolute right to

the appointment of counsel in civil actions such as this one. Therefore, a plaintiff must present “exceptional circumstances” in order to require the Court to seek the assistance of a private attorney for a plaintiff who is unable to afford counsel. Miller v. Simmons, 814 F.2d 962, 966 (4th Cir. 1987). Notwithstanding Plaintiff’s contentions to the contrary, this case does not present exceptional circumstances that justify appointment of counsel in this case. Therefore, Plaintiff’s Motion for Appointment of Counsel is **DENIED**.

IT IS, THEREFORE, ORDERED that:

1. Plaintiff’s Motion to Amend, (Doc. No. 23), is **GRANTED nunc pro tunc**;
2. Plaintiff’s Motion to Compel, (Doc. No. 24), is **DENIED**;
3. Plaintiff’s Motion for Extension of Time to File a Response to Defendants’ Motion for Summary Judgment and Motion for Discovery Protective Order, (Doc. No. 36), is **GRANTED in part and DENIED in part**. Plaintiff shall have an additional 30 days from entry of this Order to file his response to Defendants’ Motion for Summary Judgment. To the extent that Plaintiff also seeks an extension of time to respond to Defendants’ Motion for Discovery Protection Order, Plaintiff’s request is **DENIED**; and
4. Plaintiff’s Motion for Appointment of Counsel, (Doc. No. 37), is **DENIED**.

Signed: March 2, 2012



Robert J. Conrad, Jr.
Chief United States District Judge

